

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

AUG 02 2006

PABLO ROMO,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 05-73949

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

Agency No. A95-604-755

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted July 24, 2006**

Before: ALARCÓN, HAWKINS and THOMAS, Circuit Judges.

Pablo Romo, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' order affirming without opinion an immigration judge's ("IJ") decision denying his application for cancellation of removal. To the

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

extent we have jurisdiction, it is conferred by 8 U.S.C. § 1252. We review de novo claims of due process violations in immigration proceedings. *Sanchez-Cruz v. INS*, 255 F.3d 775, 779 (9th Cir. 2001). We dismiss in part and deny in part the petition for review.

Romo's contention that the agency deprived him of due process by failing to properly consider his serious health issues does not state a colorable due process claim. *See Martinez-Rosas v. Gonzales*, 424 F.3d 926, 930 (9th Cir. 2005) (“[t]raditional abuse of discretion challenges recast as alleged due process violations do not constitute colorable constitutional claims that would invoke our jurisdiction.”)

We reject Romo's contention that the IJ violated due process by taking judicial notice of the availability of asthma treatments in Mexico because Romo has failed to show the IJ erred in taking judicial notice of these facts that were not in dispute among the parties. *See Lata v. INS*, 204 F.3d 1241, 1246 (9th Cir. 2000) (explaining that petitioner must show error to prevail on a due process challenge).

The IJ did not abuse her discretion by denying Romo's request for a continuance because Romo's hearing had been scheduled for over a year and Romo did not describe how additional evidence could have materially affected the

outcome of his case. *See Gonzales v. INS*, 82 F.3d 903, 908 (9th Cir. 1996) (The decision whether to grant a continuance “is in the sound discretion of the trial judge and will not be overturned except on a showing of clear abuse”) (citation omitted).

PETITION FOR REVIEW DISMISSED in part; DENIED in part.